conflict with the Fourteenth Amendment to the Constitution of the United States. *State* v. *Gurry*, 88 Atl. 546.

For a discussion of the principles involved, see NOTES, p. 270.

CONSTRUCTIVE TRUSTS — MISCONDUCT BY NON-FIDUCIARIES — CAN ONE GUILTY OF HOMICIDE ACQUIRE TITLE BY HIS CRIME? — In probate proceedings the plaintiff took out a summons asking that one of the defendants be struck out of the proceedings as having no interest. This defendant had been convicted of the manslaughter of the testator, and under two of the alleged wills being propounded took an interest in the estate. *Held*, that the defendant must be struck out of the proceedings. *Hall* v. *Knight and Baxter*, 135 L. T. J. 550 (Ct. of Appeal).

The majority of cases have held that the slayer as heir or devisee retains both legal and beneficial interest in property inherited from his victim. *Shellenberger* v. *Ransom*, 41 Neb. 631, 59 N. W. 935; *Carpenters Estate*, 170 Pa. St. 203, 32 Atl. 637. A few courts have held that the felon does not take even the legal interest. *Perry* v. *Strawbridge*, 209 Mo. 621, 108 S. W. 641. This has been held to apply as well to the case of manslaughter as to murder. *Lundy* v. *Lundy*, 24 Can. Sup. Ct. 650. But see *Gollnik* v. *Mengel*, 112 Minn. 349, 351, 128 N. W. 292, 293. This view which excludes the claimant guilty of homicide seems directly opposed to the statutes of Wills and of Distributions, for neither statute excludes a slayer from the inheritance. A third view, which does not violate the statute, is that the criminal takes legal title by the statute, but equity will decree him constructive trustee to hold the property for the innocent heirs. See *Ellerson* v. *Westcott*, 148 N. Y. 149, 154, 42 N. E. 540, 542; AMES, LECTURES ON LEGAL HISTORY, 310. The principal case, the first English one directly in point, appears to adopt this view, excluding the manslayer from the proceedings, probably by applying the equity rule under the Judicature Act, 36 & 37 Vict. c. 66, § 24. The constructive trust theory is open to the objection that the other heirs who claim as *cestuis* were deprived by the homicide merely of a naked chance that the deceased, had he lived, might have revoked the will, or in the case of intestacy, that the heir responsible for the death might have predeceased the ancestor. If a constructive trust is looked upon broadly as a remedy, it may be proper to deprive the felon of property unconscionably obtained, permitting the heirs, as next in line, to receive a windfall. It is, however, somewhat anomalous to allow persons without title and not intended by anyone to have an interest, to claim property in court because of another's wrong that worked them no substantial injury. Furthermore, the constructive trust doctrine is not completely effective, because if the criminal sells to a *bonâ fide* purchaser, the heirs are cut off. It is submitted that legislative action disqualifying one guilty of the homicide from taking even the legal title is better than the creation of a constructive trust. Two states have such statutes. Iowa Code (Supplement 1907), § 3386; Cal. Civ. Code (1906) § 1409. The civil law expressly provides that the slayer shall be deprived of the property to which he succeeds. 4 TUILLIER, DROIT CIVIL FRANÇAIS, 113; 3 WINDSCHEID, PANDECKTENRECHTS, §§ 669, 670; La. Civ. Code, 1560, 1710.

CRIMINAL LAW — FORMER JEOPARDY — ACQUITTAL BEFORE COURT WHERE SOME OF JUSTICES WERE INELIGIBLE. — Defendants had been indicted for violating a coal-mining statute, and had been acquitted by a court, of which two of the justices were ineligible. A writ of *certiorari* was asked to quash the acquittal. *Held*, that the defendants having been once in jeopardy, the writ will not lie. *Rex* v. *Simpson*, 136 L. T. J. 10.

The fundamental principle, that a man shall not be put twice in peril for the same offense, being embodied in the national and state constitutions, has